

FCC MAIL SECTION

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DISPATCH

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FCC 96-194

In the Matter of

Amendment of the Commission's) CI Docket No. 95-55
Rules Concerning the Inspection)
of Radio Installations on Large)
Cargo and Small Passenger Ships)

NOTICE OF PROPOSED RULE MAKING

Adopted: April 25, 1996

Released: April 26, 1996

Comment Date: May 24, 1996

Reply Comment Date: June 3, 1996

By the Commission:

I. INTRODUCTION

1. By a Notice of Inquiry (NOI)¹ adopted April 24, 1995, we began this proceeding to review the Commission's Rules regarding the inspection of ships for compliance with the Communications Act of 1934, as amended, (Communications Act) and the International Convention for the Safety of Life at Sea, 1974 (Safety Convention).² We noted that the Commission had requested changes to the Communications Act that, among other things, would permit the Commission to authorize private sector organizations to inspect ships.³ In the NOI, we sought information to permit us to streamline ship inspection procedures for the maritime services, remove unnecessary rules, improve service to the

¹ Notice of Inquiry (NOI), CI Docket No. 95-55, 10 FCC Rcd 5424 (1995).

² Regulation 7 and 9 of the Safety Convention, 32 U.S.T. 47, T.I.A.S. 9700, and Sections 362 and 385 of the Communications Act, 47 U.S.C. §§ 360, 385.

³ NOI, supra note 1, at ¶ 1.

maritime community, and, above all else, preserve maritime safety. We specifically asked for comments regarding the use of private sector organizations to inspect U. S. ships. Based on the comments received and the recent changes made by the enactment of the 1996 Act,⁴ we are adopting this Notice of Proposed Rule Making (Notice) and proposing changes to the Commission's Rules that will permit us to use private sector organizations to inspect all U. S. cargo ships and passenger ships that are required by statute to have an inspection.⁵ Because the Commission's primary objective is preserving safety of life at sea we are requesting specific comments on how to ensure that safety will not be compromised by using private sector inspectors.

II. EXECUTIVE SUMMARY

2. This proceeding was initiated to incorporate changes to the Communications Act related to the inspection of ships, to explore ways to improve the Commission's ship inspection process, to reduce administrative burdens on the public and the Commission, and to ensure that vessel safety is not adversely affected. Currently, the Commission inspects the radio installations of approximately 1,600 vessels each year. The proposed rules will replace the requirement that the Commission inspect such ships with a requirement that ship owners or operators arrange for an inspection by an FCC-licensed technician. The proposal, if adopted, would result in the following benefits:

- Privatization will increase the number of experienced entities available to inspect the radio stations of ships.
- Privatization will permit ship owners and operators to arrange for inspections at any time or place.
- Our proposal for privatization should not adversely affect safety. We propose rules that will require two separate certifications that the ship has passed the safety inspection. Additionally, we are coordinating this item with the U. S. Coast Guard.
- It will also decrease administrative burdens on the Commission by shifting the responsibility to arrange ship inspections from the Commission to ship owners or operators.

⁴ Pub. L. No. 104-104, 110 Stat. 56 (1996) (The "1996 Act").

⁵ A ship is a passenger vessel if it carries more than 12 passengers and navigates on voyages in the open sea. A cargo vessel is any vessel that is not a passenger vessel. See Section 3(w) of the Communications Act, 47 U.S.C. § 153(w).

III. BACKGROUND

3. The Communications Act requires that the Commission must inspect the radio installation of large cargo ships and certain passenger ships of the United States at least once a year to ensure that the radio installation is in compliance with the requirements of the Communications Act.⁶ Additionally, the Communications Act requires that the Commission must inspect the radio installation of small passenger vessels as necessary to ensure compliance with the radio installation requirements of the Communications Act.⁷ Currently, the Commission inspects small passenger vessels once every five years.⁸ The Safety Convention, to which the United States is signatory and which applies to large cargo ships and certain passenger vessels, also requires an annual inspection. The Safety Convention, however, permits an Administration to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it.⁹ The United States can, therefore, have either Commission inspectors or other entities conduct the radio station inspections of vessels for compliance with the Safety Convention. The purpose of these inspections is to ensure that passengers and crew members of certain U. S. ships have access to distress communications in an emergency.¹⁰ The 1996 Act adopted the statutory changes in this area requested by the Commission in 1995. In part, these changes permit the Commission to designate entities to perform the inspections required by the Communications Act.

4. Section 403(n) of the 1996 Act amends section 362(b) of the Communications Act as follows:

Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provision of this Act and the station license have been complied with, the fact shall be so certified on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby--

(1) waive the annual inspection required under this section for a

⁶ Section 362(b) of the Communications Act, 47 U.S.C. § 360(b).

⁷ Section 385 of the Communications Act, 47 U.S.C. § 385.

⁸ 47 C.F.R. § 80.903.

⁹ Regulation 6(a), Chapter I, Safety Convention.

¹⁰ See Notice of Proposed Rulemaking, CI Docket No. 95-54, 10 FCC Rcd 5418 at ¶¶ 1 and 3 (1995), and NOI, supra note 1, at ¶¶ 3-8 for more information related to ship inspections.

period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating in waters beyond the jurisdiction of the United States, provided that such inspection shall be performed within 30 days of such vessel's return to the United States.¹¹

5. Section 403(o) of the 1996 Act amended section 385 of the Communications Act as follows:

(1) by inserting or "an entity designated by the Commission" after "the Commission"; and

(2) by adding at the end thereof the following: "In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification."¹²

6. The Commission inspects approximately 580 large cargo ships and small passenger vessels subject to the radio carriage requirements of the Communications Act or the Safety Convention and approximately 630 small passenger vessels that are subject only to the Communications Act each year.¹³ Together with the vessels covered under the Agreement between the United States and Canada for the Promotion of Safety on the Great Lakes by Means of Radio (Great Lakes Agreement),¹⁴ the Commission inspects approximately 1,600 ships a year.¹⁵ The Commission inspects all U. S. ships that request an inspection. Because

¹¹ Section 403(n) of the 1996 Act.

¹² Section 403(o) of the 1996 Act; see also section 403(b) of the 1996 Act amending section 49(f)(3) of the Communications Act, 47 U.S.C. § 154(f)(3).

¹³ It should be noted that there are approximately 3,150 small passenger vessels required to have an inspection every five years. The Commission's field offices have scheduled inspections to arrange for an average of 630 ship inspections each year.

¹⁴ Agreement Between Canada and the United States for the Promotion of Safety on the Great Lakes by Means of Radio, T.I.A.S. 7837, amended T.I.A.S. 9352 (Great Lakes Agreement).

¹⁵ In a Report and Order also adopted today, the Commission adopted rules to require the use of private sector inspectors for the vessels it inspects pursuant to the Great Lakes Agreement. See Report and Order, CI Docket No. 95-54, __ FCC Rcd ____.

of the prior requirement in Sections 362 and 385 of the Communications Act¹⁶ that inspections had to be conducted by the Commission, the Commission's Compliance and Information Bureau (CIB) has hired part-time ship inspectors in remote areas such as Guam or has traveled great distances to inspect radio stations on U. S. ships. CIB estimates the total annual personnel required to inspect all ships, including vessels subject to the Great Lakes Agreement, to be 15.5 full-time employees¹⁷ and the travel costs to be \$50,000 a year.

III. DISCUSSION

7. Commission inspectors currently conduct a thorough inspection of all of a ship's required radio equipment, from simple VHF marine transmitters to complex satellite transmitting and receiving equipment. The inspectors are primarily responsible for ensuring that the radio installation provides safety communications capability at the time of inspection. It is, however, the ship operator's responsibility to ensure that the vessel is capable of providing safety communications at all other times.¹⁸ The Commission's primary objective is ensuring safety of life and property at sea. In 1990, we amended Part 80, 47 C.F.R. Part 80, to implement an internationally approved safety system,¹⁹ the Global Maritime Distress and Safety System (GMDSS)²⁰ amendments to the Safety Convention.²¹ Further, we worked in conjunction with the United States Coast Guard to incorporate the GMDSS in the 1996 Act.²²

8. The NOI was the initial step to develop and implement an overall strategy to improve the manner in which the Commission conducts inspections of ship radio stations without derogating the safety of life at sea. We requested comments on a wide range of subjects related to these inspections, including technical improvements in how the Commission currently conducts inspections, the conduct of inspections of GMDSS equipped ships, the use of the private sector to conduct compulsory inspections, and, whether the use of

¹⁶ 47 U.S.C. §§ 360, 385.

¹⁷ CAB Enforcement Division Plan for fiscal year 1995.

¹⁸ See generally, Section 351 of the Communications Act, 47 U.S.C. § 351, and Regulation 11, Chapter I of the Safety Convention.

¹⁹ See Report and Order, PR Docket No. 90-480, 7 FCC Rcd 951 (1992).

²⁰ The GMDSS, the result of over 10 years work by the world's maritime nations, is an automated ship-to-shore distress alerting system that relies on satellite and advanced digital terrestrial systems.

²¹ See Final Acts of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974, on the Global Maritime Distress and Safety System, adopted November 9, 1988.

²² Section 204 of 1996 Act, § 206, Pub. L. 104-104, 110 Stat. 56 (1996).

the private sector would compromise safety.²³ We received 22 comments in response to the NOI.²⁴

9. Two commenters, The American Institute of Merchant Shipping (AIMS) and Mr. William G. Weisheit (Weisheit), an Electronics Specialist with Maritime Overseas Corporation, responded to our questions regarding technical improvements the Commission could make to the present inspection process for radiotelegraph equipped vessels. AIMS and Weisheit suggested that no change be made to the present inspection process because radiotelegraph equipped ships would be phased out in 1998.²⁵ We agree with their comments and, thus, are not proposing any changes to the Commission's Rules pertaining to measurements taken or procedures performed during the inspection of manual Morse code radiotelegraph equipment. Further, Commission inspectors already have streamlined the inspection of radiotelegraph installations. As a result the Commission's inspection process now takes an average of three hours rather than six hours.

10. Three commenters, AIMS, Weisheit, and ABS Americas (ABS), responded to our request for comments about the GMDSS. We requested comments on how to efficiently inspect GMDSS ships.²⁶ We requested commenters to consider different approaches and requested specific comments on the following topics:

- A. Is there a need to measure frequency tolerance, modulation, and output power for GMDSS equipment?
- B. Can we use over-the-air measurements in lieu of measurements made at the ship?
- C. Should inspectors rely on the self-test features of GMDSS equipment, when it is provided?

11. ABS states that it supports the recommendation of the Commission that early implementation of GMDSS be encouraged.²⁷ AIMS suggests that the inspection of ships

²³ NOI, *supra* note 1 at ¶¶ 12-17.

²⁴ Commenters are listed in Appendix A.

²⁵ Comments of The American Institute of Merchant Shipping (AIMS) at 3; comments of Mr. William G. Weisheit (Weisheit) at 1.

²⁶ Because many of the ships the Commission inspects are equipped with satellite and digital data systems and operating under coastwise, domestic exemptions authorized by Section 80.836(c) of the Commission's Rules, 47 C.F.R. § 80.836(c), Commission inspectors are familiar with most of the equipment used in the GMDSS.

²⁷ Comments of ABS Americas (ABS) at 1.

equipped with GMDSS equipment²⁸ can rely on the self-test features of the equipment.²⁹ AIMS also recommends use of the Commission's type-approval process which ensures compliance with technical standards.³⁰ Weisheit states that the GMDSS equipment could be tested by simple radio checks followed up by random inspections and that the Commission could incorporate over-the-air measurements as part of the inspection process.³¹ Commenters did not address our question about the need to measure frequency tolerance, etc. We agree with commenters and will use the self-test features of GMDSS equipment as part of any future radio station inspections that the Commission performs.

12. *Safety.* We noted in the NOI that the Commission is responsible for inspecting U. S. ships or ensuring that all inspections are sufficient for compliance with the requirements of the Safety Convention. We requested specific comments as to whether the use of the private sector to conduct inspections on behalf of the Commission would have an adverse impact on maritime safety. We also requested comments on whether we should authorize only classification societies to conduct inspections.³²

13. ABS suggested that it be the only classification society permitted to inspect vessels that are not classed by a recognized classification society.³³ Mr. Arne F. Hanson (Hanson), a radio officer, opposes any privatization of ship inspections and contends that safety of life and property would be adversely affected by privatization. Hanson also contends that a ship's manual Morse code transmitter is used when safety warrants it.³⁴ AIMS suggests that the Commission drop the annual inspection interval and instead rely on annual certifications from the shipowner.³⁵ Beaver Island Boat Co. suggests that all

²⁸ See Sections 80.1065-80.1135 of the Commission's Rules, 47 C.F.R. §§ 80.1065-80.1135.

²⁹ Comments of AIMS at 3.

³⁰ Id.

³¹ Comments of Weisheit at 3-4.

³² A classification society "classes" a vessel by inspecting it and certifying that the ship is mechanically sound and fit. In the United States, the American Bureau of Shipping conducts inspections for the United States Coast Guard to determine the maximum load that may be carried by U. S. vessels. See 46 U.S.C. § 3316. The American Bureau of Shipping began classing wooden hull vessels in 1862. Classification societies also conduct ship radio station inspections for compliance with international and domestic regulations. Internationally there are more than 40 classification societies that conduct safety inspections.

³³ Comments of ABS at 1.

³⁴ Comments of Mr. Arne F. Hanson at 1.

³⁵ Comments of AIMS at 3.

inspections of U. S. vessels be dropped.³⁶

14. All other commenters support the use of private sector inspectors to conduct inspections of U. S. vessels in lieu of Commission inspectors. Lahaina-Lanai Passenger shuttle states that classification societies do not maintain convenient field offices, especially for small operators in remote locations.³⁷ Icicle Seafoods, Inc., (Icicle Seafoods) opposes restricting inspections to classification societies only and estimates the cost of an ABS inspection to be several thousand dollars at a remote location in Alaska.³⁸ Icicle Seafoods states that it already uses private sector inspectors to preinspect a vessel before an FCC inspection.³⁹ Glacier Guides, Inc., states that it is imperative that we permit non-government inspections because it is almost impossible to schedule an FCC inspection.⁴⁰ AIMS notes that the Commission and the ship owners have a partnership with respect to safety communications. AIMS points out that the inspection only verifies that the equipment works on the day of inspection and that it is up to the ship's operator to ensure that the equipment works the rest of the time.⁴¹ Weisheit states that privatization would not affect safety because a ship's operating and maintenance personnel have a personal interest (their own safety) in having properly operating communications equipment while at sea.⁴² Weisheit also states, however, that the use of private sector would (cause the Commission) to use more personnel to oversee the inspections than it would use to conduct the inspections.⁴³

15. When we began this proceeding we noted that the Commission was faced with a mandate to conserve resources and to provide more efficient and better service to our customers.⁴⁴ In fact, the Commission initiated this proceeding as a result of the Compliance and Information Bureau (CIB) applying the principles of the National Performance Review to mandated ship inspections. Further, the 1996 Telecommunications Act did not change the

³⁶ Comments of Beaver Island Boat Co. at 1.

³⁷ Comments of Lahaina-Lanai Passenger Shuttle at 1.

³⁸ Comments of Icicle Seafoods, Inc. at 1.

³⁹ Id.

⁴⁰ Comments of Glacier Guides, Inc. at 1.

⁴¹ Comments of AIMS at 1-2.

⁴² Weisheit at 5.

⁴³ Id.

⁴⁴ Since the release of the NOI, we have announced that we are closing 18 of the Commission's 34 field offices. Ten of these offices presently conduct ship inspections. The ten offices are located in Miami, Florida; Houston, Texas; Portland, Oregon; Anchorage, Alaska; Honolulu, Hawaii; San Juan, Puerto Rico; Kingsville, Texas; Norfolk, Virginia; Ferndale, Washington; and Belfast, Maine.

requirement in the Communications Act that U. S. ships must have an annual inspection of the ship's radio installation, and the Commission has no authority to change that requirement. Therefore, it is still the Commission's statutorily-mandated responsibility to ensure that a ship's radio installation is fully operational at the time of inspection and, thus, capable of transmitting a distress message. We believe that the only way to ensure that the radio installations of approximately 1,200 ships subject to the Communications Act or the Safety Convention are inspected annually is to completely transform the way ship inspections are conducted. We believe that the private sector can conduct ship inspections that are thorough and complete. Because of our concern, however, that relying on private sector inspections not derogate safety of life at sea, we are asking for specific comments related to the following proposals.

16. We propose that the Commission's role in ship inspections be completely replaced by the private sector. We propose rules that specify what class of FCC license is required for each ship inspection. Further, because the GMDSS will be fully implemented on February 1, 1999, and will replace the present system of radiotelephone and radiotelegraph installations with satellite and automated data systems, we propose that GMDSS equipped ships must be inspected by an FCC-licensed technician with a GMDSS Radio Maintainer License. Our specific proposals are as follows:

A. The inspection of cargo vessels or passenger vessels equipped with a radiotelephone installation must be conducted by an FCC-licensed technician holding an FCC General Radiotelephone Operator License, GMDSS Radio Maintainer's License, Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate.

B. The inspection of cargo vessels or passenger vessels equipped with a radiotelegraph installation must be inspected by an FCC-licensed technician holding a Second Class Radiotelegraph Operator's Certificate or First Class Radiotelegraph Operator's Certificate.

C. The inspection of a cargo vessel or a passenger vessel equipped with GMDSS equipment must be conducted by an FCC-licensed technician holding a GMDSS Radio Maintainer's License.

17. In addition, we propose to require two independent certifications that a ship has passed the inspection: one certification from the inspecting technician that the vessel has passed an inspection and another certification from the vessel owner, operator, or ship's master indicating that he or she is satisfied that the inspection was satisfactory. We also tentatively conclude that a critical component of this ship inspection program is that the inspectors be independent of the vessel owners and operators in order to maintain the program's integrity. We are, therefore, proposing that the vessel's owner, operator, master, or employees or their affiliates not be permitted to conduct the required inspections. Finally, we propose that the FCC-licensed inspector be permitted to issue a certificate on behalf of the

United States and that such certificate will satisfy the requirements of both the Communications Act and the Safety Convention.

18. Because the Commission is ultimately responsible for guaranteeing that an inspection meets the requirements of the Communications Act and the Safety Convention, we request specific comment on the following questions related to these proposals.

A. The 1996 Act amended Section 385 of the Communications Act to permit the Commission to enter into contracts with any person for the purpose of carrying out inspections of small passenger vessels. We tentatively conclude that small passenger vessels are permitted to arrange inspections without Commission intervention. As a result, we are proposing rules that permit small passenger vessels to arrange inspections with an FCC-licensed technician. Should the Commission enter into contracts with FCC-licensed technicians regarding such inspections?

B. We tentatively conclude that FCC-licensed technicians should be permitted to inspect vessels. FCC-licensed technicians have demonstrated knowledge of the operational and technical requirements for radiotelephone installations, radiotelegraph installations, and/or GMDSS installations. These technicians are licensed by the Commission specifically to repair, maintain, or operate compulsory radio equipment on board ships. Do the minimum licensing requirements we have proposed ensure that the individuals inspecting ships on behalf of the Commission are sufficiently qualified?

C. Comments in response to the NOI were divided about the level of Commission oversight with respect to ship inspections. Some commenters suggested that we conduct random or follow-up inspections. What is the best way to ensure that safety is not adversely affected by privatization? We have entered into agreements with the U. S. Coast Guard in the past to verify that ships have valid certificates. Is this sufficient?

IV. CONCLUSION

19. We believe that an essential component of effective government is being responsive to user needs. Thus, we began this proceeding to promote flexibility, to improve our inspection process by removing unnecessary and cumbersome policies and, most importantly, to provide better service to the public. In summary, we believe that it is both necessary and timely to change the policies, rules and procedures that the Commission uses to regulate the inspection of ship radio stations.

V. PROCEDURAL MATTERS

20. An Initial Regulatory Flexibility Analysis is contained in Appendix B to this Notice.

21. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested persons may file comments on or before May 24, 1996, and may file reply comments on or before June 3, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you should file an original and nine copies. You should send your comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. You may also file informal comments by electronic mail. You should address informal comments to g Dillon@fcc.gov. You must put the docket number of this proceeding on the subject line (*see* the caption at the beginning of this *Notice*). You must also include your full name and Postal Service mailing address in the text of the message. Comments and reply comments will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission (Room 239), 1919 M Street, N.W., Washington, D.C. 20554.

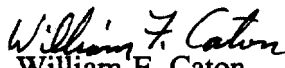
22. This is a non-restricted notice and comment rule making proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.206(a).

23. We adopt this Notice under the authority contained in Sections 4(i), 303(r), 362 and 385 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 360, and 385.

24. IT IS FURTHER ORDERED That the Secretary mail a copy of this document to the Commandant, United States Coast Guard.

25. For further information, contact George R. Dillon, Compliance and Information Bureau, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554; telephone 202-418-1100; Internet gdillon@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

APPENDIX A

COMMENTERS

Mr. William G. Weisheit
The American Institute of Merchant Shipping
Beaver Island Boat Co.
Cabras Marine Corporation
Eco Adventures
Icicle Seafoods, Inc.
Captain Zodiac
Glacier Guides, Inc.
Lahaina-Lanai Passenger Shuttle
Mr. Arne F. Hanson
ABS Americas
Express Navigation, Inc.
National Party Boat Owners Alliance, Inc.
Navatek Ships, Ltd.
Paradise Cruise, Ltd.
Passenger Vessel Association
Mr. E. W. Richards
Shamrock
F/T Starbound
Trident Seafood
TSA Maalaea Inc.
The Yacht Ultra

APPENDIX B

INITIAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals contained in this Notice. We request written public comment on the IRFA, which follows. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in paragraph 19, supra. The Secretary shall send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601-612 (1981).

A. Reason for Action

2. The Commission proposes to require that ships subject to the Communications Act or the Safety Convention must have the required inspection conducted by an FCC-licensed technician.

B. Objectives

3. We seek to promote efficiency in the Commission's service to the public and to encourage the use of private sector organizations to take over government operations wherever possible.

C. Legal Basis

4. The proposed action is authorized under Sections 4(i) and 303(r) of the Communications Act, 47 U.S.C. §§ 154(i) and 303(r), and the Safety Convention Chapter I, Regulation 6(a).

D. Reporting, Recordkeeping and Other Compliance Requirements

5. Our proposed amendments to 47 C.F.R. §§ 80.802, 80.851, 80.903 and 80.1067 would require owners and operators of vessels subject to the Communications Act to use an FCC-licensed technician to meet a current inspection requirement.

E. Federal Rules Which Overlap, Duplicate or Conflict with These Rules.

6. None.

F. Description, Potential Impact, and Small Entities Involved

7. Use of the private sector to inspect vessels subject to the Communications Act

or the Safety Convention would allow better service to the owners and operators of such vessels, many of which are small businesses, and more efficient use of scarce government resources. It would additionally encourage the creation of jobs to inspect approximately 1,110 vessels each year.

G. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives

8. None.

APPENDIX C

PROPOSED RULES

Chapter I of Title 47 of the Code of Federal Regulations, Parts 0 and 80 are proposed to be amended as follows:

I. PART 0--COMMISSION ORGANIZATION

The authority citation for Part 0 continues to read as follows:

AUTHORITY: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

1. Section 0.314 is amended by revising paragraph (j) to read as follows:

§ 0.314 Additional authority delegated.

* * * * *

(j) For ship radio inspection and certification of the ship radio license, pursuant to the requirements of section 362(b) of the Telecommunications Act of 1996. The District Director will require that the inspection be conducted by an FCC-licensed technician holding an appropriate class of FCC license in accordance with § 80.59 of this chapter.

* * * * *

II. Part 80 - Stations in the Maritime Services

2. The authority citation for Part 80 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

3. Section 80.5 is amended by revising two definitions and adding a new definition to read as follows:

§ 80.5 Definitions.

* * *

Cargo ship safety radiotelegraphy certificate. A certificate issued after a ship passes an inspection of a radiotelegraph installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

Cargo ship safety radiotelephony certificate. A certificate issued after a ship passes an inspection of a radiotelephone installation. Issuance of this certificate indicates that the vessel complies with the Communications Act and the Safety Convention.

Cargo ship safety radio certificate. A certificate issued after a ship passes an inspection of the required GMDSS radio installation. Issuance of this certificate indicates that

the vessel complies with the Communications Act and the Safety Convention.

4. Section 80.59 is amended by revising paragraphs (a), (d), (d)(1) and adding a new paragraph (d)(2) to read as follows:

§ 80.59 Compulsory ship inspections.

(a) *Inspection of ships subject to the Communications Act or the Safety Convention.*

(1) The FCC will not inspect ships subject to the Communications Act or the Safety Convention. The inspection of U. S. vessels must be conducted by an FCC-licensed technician holding an FCC General Radiotelephone Operator License, GMDSS Radio Maintainer's License, Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate in accordance with the following table:

CATEGORY OF VESSEL	FCC LICENSED TECHNICIAN PERMITTED TO CONDUCT INSPECTION			
	General Radiotelephone Operator License	GMDSS Radio Maintainer's License	Second Class Radiotelegraph Operator's Certificate	First Class Radiotelegraph Operator's Certificate
Radiotelephone equipped vessels subject to subpart R or S	✓	✓	✓	✓
Radiotelegraph equipped vessels subject to subpart Q			✓	✓
GMDSS equipped vessels		✓		

(2) A certification that the ship has passed an inspection must be entered into the ship's log by the inspecting technician. The technician conducting the inspection and providing the certification must not be the vessel's owner, operator, master, or employee or their affiliates. Additionally, the vessel owner, operator, or ship's master must certify in the station log that the inspection was satisfactory. There are no FCC prior notice requirements for any inspection pursuant to § 80.59(b). An inspection of the bridge-to-bridge radio stations on board vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act must be conducted by the same FCC-licensed technician.

(b) * * *

(d) *Waiver of annual inspection.*

(1) The Commission may, upon a finding that the public interest would be served, grant a waiver of the annual inspection required by Section 362(b) of the Communications Act, 47 U.S.C. § 360(b), for a period of not more than 90 days for the sole purpose of enabling a United States vessel to complete its voyage and proceed to a port in the United

States where an inspection can be held. An informal application must be submitted by the ship's owner, operator or authorized agent. The application must be submitted to the Commission's District Director in charge of the FCC office nearest the port of arrival at least three days before the ship's arrival. The application must include:

(i) * * *

(v) The reason why an FCC-licensed technician could not perform the inspection; and

(vi) * * *

(2) Vessels that are navigated on voyages outside of the United States for more than 12 months in succession are granted a waiver of the annual inspection required by section 362(b) of the Communications Act, provided that the vessels comply with all applicable requirements of the Safety Convention, including the annual inspection required by Regulation 9, Chapter I, and the vessel is inspected by an FCC-licensed technician in accordance with § 80.59 within 30 days of arriving in the United States.

5. Section 80.101 is amended by revising the fourth sentence in paragraph (b) to read as follows:

§ 80.101 Radiotelephone testing procedure.

* * * * *

(b) * * * U. S. Coast Guard stations may be contacted on 2182 kHz or 156.800 MHz for test purposes only when tests are being conducted by Commission employees, when FCC-licensed technicians are conducting inspections on behalf of the Commission, when qualified technicians are installing or repairing radiotelephone equipment, or when qualified ship's personnel conduct an operational check requested by the U. S. Coast Guard. * * *

6. Section 80.409 is amended by revising paragraphs (b)(1) and (f)(1) and adding paragraphs (f)(1)(i)-(vi) to read as follows:

§ 80.409 Station logs.

* * * * *

(b) * * *

(1) Logs must be retained by the licensee for a period of two years from the date of entry, and when applicable for such additional periods as required by the following paragraphs:

(i) * * *

(f) * * *

(1) Radiotelephony stations subject to the Communications Act, the Safety Convention, or the Bridge-to-Bridge Act must record entries indicated by paragraphs (e)(1) through (e)(12) of this section. Additionally, the radiotelephone log must provide an easily identifiable, separate section relating to the required inspection of the ship's radio station. Entries must be made in this section giving at least the following information:

(i) The date the inspection was conducted.

- (ii) The date by which the next inspection needs to be completed.
- (iii) The inspector's printed name, address and class of FCC license (including the serial number).
- (iv) The results of the inspection, including any repairs made.
- (v) The inspector's signed and dated certification that the vessel meets the requirements of the Communications Act and, if applicable, the Safety Convention and the Bridge-to-Bridge Act contained in subparts Q, R, S, U, or W of this part and has successfully passed the inspection.
- (vi) The vessel owner, operator, or ship's master's certification that the inspection was satisfactory.

7. Section 80.802 is amended by revising paragraph (a) to read as follows:

§ 80.802 Inspection of station.

(a) Every ship of the United States subject to Part II of Title III of the Communications Act or Chapter IV of the Safety Convention equipped with a radiotelegraph installation must have the required radio equipment inspected by an FCC-licensed technician holding a Second Class Radiotelegraph Operator's Certificate, or First Class Radiotelegraph Operator's Certificate once every 12 months. If the ship passes the inspection the technician will issue a Safety Certificate.

(1) * * *
* * * * *

8. Section 80.818 is amended by revising paragraph (b) to read as follows:

§ 80.818 Direction finding and homing equipment.

* * *

(b) *On or after May 25, 1980*, must be equipped with radio direction finding apparatus having a homing capability in accordance with § 80.824.

9. Section 80.819 is amended by revising paragraph (a) to read as follows:

§ 80.819 Requirements for radio direction finder.

(a) The radio direction finding apparatus must:

(1) * * *

* * * * *

10. Section 80.822 is amended by removing paragraph (b).

11. Section 80.835 is amended by removing the fourth sentence in paragraph (a).

12. Section 80.851 is amended by revising the text and adding a new paragraph (a) to read as follows:

§ 80.851 Applicability.

The radiotelephone requirements of Part II of Title III of the Communications Act and the Safety Convention apply to cargo ships of 300 gross tons and upward. These ships are required to carry a radiotelephone installation complying with this subpart.

(a) Until February 1, 1999, the inspection of all cargo vessels equipped with a radiotelephone installation operated on domestic or international voyages must be conducted by an FCC-licensed technician in accordance with § 80.59 once every 12 months. If the ship passes the inspection the technician will issue a Safety Certificate.

13. Section 80.903 is amended by revising the text to read as follows:

§ 80.903 Inspection of radiotelephone installation.

Every vessel subject to Part III of Title III of the Communications Act must have a detailed inspection of the radio installation by an FCC-licensed technician in accordance with § 80.59 once every five years. If the ship passes the inspection, the technician will issue a Safety Certificate.

* * * * *

14. Section 80.1067 is amended by revising paragraph (a) to read as follows:

§ 80.1067 Inspection of station.

(a) Ships must have the required equipment inspected at least once every 12 months by an FCC-licensed technician holding a GMDSS Radio Maintainer's License. If the ship passes the inspection the technician will issue a Safety Certificate. The effective date of the ship Safety Certificate is the date the station is found to be in compliance or not later than one business day later.

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